

JUL 21 1993

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In the Matter of)

Implementation of Sections)
of the Cable Television Consumer)
Protection and Competition)
Act of 1992)

MM Docket No. 92-266

Rate Regulation)

COMMENTS OF THE
NATIONAL TELEPHONE COOPERATIVE ASSOCIATION

The National Telephone Cooperative Association ("NTCA") submits these supporting Comments to the petitions for reconsideration filed by Fleischmann and Walsh on behalf of the Arizona Cable Television Association and others (Arizona Petition) and by the Coalition of Small System Operators (Coalition Petition). Petitions were filed in this docket on June 21, 1993, and published in the Federal Register on July 6, 1993.¹

NTCA is a national association of approximately 500 small and rural local exchange carriers ("LECs") providing telecommunications services to interexchange carriers ("IXCs") and subscribers across rural America. Approximately 150 of NTCA's members operate small cable television systems in their telephone service area. Most of them provide service under the rural exemption in 47 C.F.R. § 63.58. Almost all the companies

¹ These comments are filed within the pleading cycle established in the Notice. Oppositions are due on July 21, 1993, and replies thereto within 10 days after the time for filing oppositions have expired.

have fewer than 1,000 subscribers. They generally operate with small staffs. Most of them were established by the telephone companies at the request of subscribers or franchising authorities because service could not be obtained from multiple system operators. Because service is provided in sparsely populated areas the systems are generally not subject to "effective competition." Costs, however, are also generally higher in these areas because they do not possess the economies of scale present in more densely populated areas.

DISCUSSION

Petitioners request that the Commission reduce the unfair burdens imposed on small cable system operators as a result of the rate regulation order released May 3, 1993. NTCA supports their requests.

The petitioners correctly point out that the Commission has not observed the statutory mandate to ease the administrative burdens on small companies. They observe that small operators are treated no differently and affected more severely than large operators. They necessarily have had to engage costly experts, and to expend limited resources and huge amounts of time to decipher and comply with the new Commission rules.² Recently, Commissioner Ervin S. Duggan acknowledged that the Commission needs to be sensitive to the fact that small companies do not have legions of accountants, consultants and lawyers to comb

² Coalition Petition at 4.

through thickets of regulations.³ NTCA also can attest that the cable rate regulation rules have been extremely burdensome for its small system members.⁴ It also agrees that the rules fail to build in any meaningful regulatory relief for small systems. Arizona, for example, points out that the exemption from filing an initial basic rate schedule (if permitted by the franchising authority) is especially meaningless. Only the franchising authority has a reduced burden under this procedure. That is because it does not have to extensively review the cable operator's initial rates. However, under the procedure, the small cable operator's burden is no less than the large operator's burden. It must still wade through Form 393 and the worksheets to determine its Maximum Initial Permitted Rate, and unbundled equipment charges.⁵ The Coalition makes the point that it took an FCC staff member almost one hour to explain how to fill out the worksheets, even without having to obtain the information to be included.⁶

³ Commissioner Duggan has also said he is "determined to reduce the regulatory burdens on small systems wherever possible." See, Remarks of Commissioner Ervin S. Duggan at 1993 Rocky Mountain Cable Television Expo, Snowmass, Colorado. July 16, 1993.

⁴ NTCA has had numerous questions from its small system operators about small company exemptions, cable rate regulations, and other aspects of cable regulation. It has sponsored one seminar on new cable regulations here in Washington, D.C. to assist its members with the new regulations and has scheduled a second in Minneapolis, Minnesota for August.

⁵ Arizona Petition at 3.

⁶ Coalition Petition at 4.

The Commission's obligation under Section 623 (i) of the Cable Television Protection and Competition Act of 1992 (Act) is to relieve the burden on small systems as well as franchising authorities. It has partly ignored the Act by failing to reduce administrative burdens on small systems. NTCA further agrees that the Commission's treatment of small systems contradicts the intent of Section 623 (i) of the Act. Arizona correctly points out that the Commission has increased rather than decreased the burdens on small companies.

NTCA also agrees with Arizona's position that the Commission has authority to exempt small systems from substantive and procedural rate regulation rules. In prior comments to the Notice of Proposed Rulemaking in this docket, NTCA stated its belief that a blanket exemption for small systems is consistent with the Act and would best achieve the objectives of the Act.⁷ Arizona now urges the Commission to exempt small systems and notes that the Commission is clearly empowered to do so.⁸ NTCA agrees and supports Arizona's position.

⁷ NTCA Comments of January 27, 1993, at 5.

⁸ Arizona, citing, Kim McAvoy, Quello, Address at the 42nd Annual Convention and Exposition of the National Cable Television Association (June 8, 1993) notes that Chairman Quello has suggested that the Commission should exempt small systems from basic rate regulation altogether.

CONCLUSION

For the above stated reasons, NTCA urges the Commission to exempt small systems with fewer than 1,000 subscribers from rate regulation.

Respectfully submitted,

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July 21, 1993

CERTIFICATE OF SERVICE

I, Gail C. Malloy, certify that a copy of the foregoing
Comments of the National Telephone Cooperative Association in
MM Docket No. 92-266 was served on this 21st day of July 1993, by
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